

DAVID R. EBERHART (S.B. #195474)
deberhart@omm.com
LUANN L. SIMMONS (S.B. #203526)
lsimmons@omm.com
JAMES K. ROTHSTEIN (S.B. #267962)
jrothstein@omm.com
DANIEL H. LEIGH (S.B. #310673)
dleigh@omm.com
O'MELVENY & MYERS LLP
Two Embarcadero Center
28th Floor
San Francisco, California 94111-3823
Telephone: +1 415 984 8700
Facsimile: +1 415 984 8701

Attorneys for Plaintiffs
ELASTICSEARCH, INC. and
ELASTICSEARCH B.V.

KWUN BHANSALI LAZARUS LLP
MICHAEL S. KWUN (SBN 198945)
mkwun@kblfirm.com
555 Montgomery St., Suite 750
San Francisco, CA 94111
Telephone: 415 630-2350
Facsimile: 415 367-1539

WUERSCH & GERING LLP
V. DAVID RIVKIN (admitted pro hac vice)
david.rivkin@wg-law.com
JUSTIN P. LEE (admitted pro hac vice)
justin.lee@wg-law.com
MICHAEL SENZER (admitted pro hac vice)
michael.senzer@wg-law.com
100 Wall St., 10th Fl.
New York, NY 10005
Telephone: 212 509-5050
Facsimile: 212 509-9559

Attorneys for Defendant
FLORAGUNN GmbH

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

ELASTICSEARCH, INC., a Delaware
corporation, and ELASTICSEARCH B.V., a
Dutch corporation,

Plaintiffs,

v.

FLORAGUNN GmbH, a German corporation,

Defendant.

Case No. 4:19-cv-05553-YGR

**STIPULATION AND ~~PROPOSED~~
ORDER TO MODIFY CASE
SCHEDULE; DECLARATION OF
DAVID R. EBERHART**

**** AS AMENDED BY THE COURT ****

Pursuant to Civil Local Rules 6-1(b), 6-2, and 7-12, defendant floragunn GmbH (“defendant”) and plaintiffs Elasticsearch, Inc. and elasticsearch B.V. (“plaintiffs”), by and through their attorneys of record, stipulate and move as follows:

WHEREAS, on January 24, 2022, the parties conducted a Settlement Conference before Magistrate Judge Sallie Kim;

WHEREAS, although the case did not settle at the Settlement Conference, Magistrate Judge Kim proposed to the parties that they stipulate to continue the trial date and current case management deadlines to enable further settlement efforts;

WHEREAS, Magistrate Judge Kim scheduled a further Settlement Conference for February 10, 2022 (*see* Dkt. 229);

WHEREAS, pursuant to the Court’s Case Management Order, the Pretrial Conference is scheduled for February 11, 2022, and trial is scheduled to commence on February 28, 2022 (Dkt. 86);

WHEREAS, pursuant to the Court’s Standing Order Re: Pretrial Instructions In Civil Cases, the parties must file their Joint Pretrial Conference Statement and motions *in limine* by January 28, 2022, file oppositions to motions *in limine* by February 2, 2022, and deliver to the Court their Trial Readiness Binder by February 4, 2022; additionally, pursuant to Federal Rule of Civil Procedure 72(a), plaintiffs must file by February 1, 2022, their motion for relief from the January 18, 2022 non-dispositive pretrial order of Magistrate Judge Alex Tse (Dkt. 226);

WHEREAS, the parties have been diligently preparing for the pretrial conference and trial, including complying with their meet and confer and document exchange obligations under the Court’s Standing Order Re: Pretrial Instructions In Civil Cases and, absent an order from the Court altering the schedule, expect that they will comply with each of the deadlines set by the Court’s Standing Order Re: Pretrial Instructions In Civil Cases;

WHEREAS, to focus on settlement discussions and conserve resources, the parties respectfully request that the Court (1) vacate the trial date, the Pretrial Conference and the associated deadlines set forth in the Court’s Standing Order Re: Pretrial Instructions In Civil Cases, and plaintiffs’ deadline to file any motion for relief from the January 18, 2022 non-

1 dispositive pretrial order of the Court (Dkt. 226) and (2) set a status conference to discuss new
2 deadlines and a new trial date should settlement efforts fail;

3 NOW, THEREFORE, the parties submit that good cause exists to alter the schedule and,
4 through their respective counsel, hereby stipulate to and respectfully request that the Court (a)
5 vacate the trial date, the Pretrial Conference, and the associated deadlines set forth in the Court's
6 Standing Order Re: Pretrial Instructions In Civil Cases including the deadlines for filing motions
7 *in limine* and oppositions thereto, for filing the Joint Pretrial Conference Statement, for
8 submitting the Joint Trial Readiness Binder and its contents; (b) continue the date by which
9 plaintiffs must file any motion for relief from the January 18, 2022 non-dispositive pretrial order
10 of the Court (Dkt. 226) to a further date to be set by the Court; and (c) set the matter for a status
11 conference on Monday, February 28, 2022 at 2:00pm.

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13 IT IS SO STIPULATED.
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Dated: January 26, 2022

DAVID R. EBERHART
LUANN L. SIMMONS
JAMES K. ROTHSTEIN
DANIEL H. LEIGH
O'MELVENY & MYERS LLP

By: /s/ David R. Eberhart
David R. Eberhart

Attorneys for plaintiffs
ELASTICSEARCH, INC. and
ELASTICSEARCH B.V.

Dated: January 26, 2022

WUERSCH & GERING LLP
V. DAVID RIVKIN


By: /s/ V. David Rivkin
V. David Rivkin

Attorneys for defendant
FLORAGUNN GmbH

PURSUANT TO STIPULATION, IT IS SO ORDERED.

However, the February 28, 2022 status conference shall be set for 1:00 p.m., not
2:00 p.m.

Dated: January 27, 2022


Hon. Yvonne Gonzalez Rogers
United States District Judge